



**Office of Governmental Affairs**  
P.O. Box 942720  
Sacramento, CA, 94229-2720  
Telecommunications Device for the Deaf - (916) 795-3240  
(916) 795-3689, Fax (916) 795-3270

May 15, 2007

### **AGENDA ITEM 3**

#### **TO: MEMBERS OF THE HEALTH BENEFITS COMMITTEE**

- I. SUBJECT:** Assembly Bill 524 (Hancock)—As Amended  
April 9, 2007
- West County Wastewater District Vesting for Health Benefits
- Sponsor: Public Employees Union, Local #1*
- II. PROGRAM:** Legislation
- III. RECOMMENDATION:** Neutral, unless amended
- Staff recommends that AB 542 be amended to allow this contract option to participating employers.
- IV. ANALYSIS:**
- This bill codifies the outcome of collective bargaining agreements between the West County Wastewater District (District) and its employee group. The provisions of the bill would provide the District with a Public Employees' Medical and Hospital Care Act (PEMHCA) contract option to provide an employer contribution for annuitant health care premiums based on the 100/90 formula if the employee completes ten years of state service at retirement, five of which must be with the District. This provision only applies to district employees who are first hired on or after January 1, 2009, but may be annually offered by the District to all other employees.

#### **Background**

##### **CONTRACT OPTIONS FOR ALL AGENCIES**

A contracting agency, whether a public agency or a school employer, has several employer contribution options for annuitants:

### Equal Employer Contributions for Active Employees and Annuitants

- A contracting agency could opt to make the employer contribution amount equal for both active employees and annuitants. Under this option, an employee who retires and meets the definition of annuitant becomes 100 percent vested and receives an employer contribution amount equal to the active employees' employer contribution. (Government Code section 22892)

### Unequal Employer Contributions for Active Employees and Annuitants

- A contracting agency that joins PEMHCA on or after January 1, 1986, has the option to pay a lesser employer contribution amount for annuitants than for active employees as long as the agency increases its contribution for annuitants each year until it equals the agency's contributions for active employees. Based on the formula, it may take 20 years for the lesser contribution amount to equal the active employee contribution amount. Under this option, an employee who retires and meets the definition of annuitant becomes 100 percent vested and receives an employer contribution amount of the lesser contribution value. [Government Code section 22892(c)]

### Preset Vesting Schedule for Employer Contributions for Annuitants

- Government Code section 22893 provides a contracting agency with the option to establish a pre-set "vesting schedule" of specific percentages based on an employee's credited years of service to determine the employer contribution amount for annuitants.

Credited Years of Service	Percentages of Employer Contribution
10	50
11	55
12	60
13	65
14	70
15	75
16	80
17	85
18	90
19	95
20 or more	100

Under this option, an employee would have to work at least 10 years to become vested for any portion of the employer contribution and would have to work 20 years to become vested for 100 percent of the contribution.

The provisions of section 22893 are identical to those presented in this bill except this bill eliminates the graduated vesting schedule and instead provides

for 100 percent vesting of employer contribution at 10 years versus the schedule's 20-year timeline.

#### CONTRACT OPTION FOR SCHOOL EMPLOYERS ONLY

In addition to the options listed above, school employers have a contract option that is not available to other public agencies. This option allows school employers to use collective bargaining to establish an employer contribution amount for annuitants. A Memorandum of Understanding (MOU) would establish the employer contribution and would only apply to those employees who retire subsequent to the MOU effective date. (Government Code section 22895)

#### WEST COUNTY WASTEWATER DISTRICT

The West County Wastewater District (District) currently participates in the CalPERS PEMHCA Health Benefits Program as an "equal" contribution agency. The District employer contribution for annuitant health care premiums is equal to the employer contribution for active employee health benefits, and is currently set at \$1,122 per person, per month. The District currently has 148 total covered lives, including 20 retirees. The District states it pays \$500,000 per year for medical benefits for current employees and an additional \$105,000 for retiree medical benefits.

#### **Proposed Changes**

This bill would add a new vesting schedule option for employer contributions to annuitant health care premiums for the District. AB 524 would codify the District's negotiated contract option to provide an employer contribution for annuitant health care premiums at the currently specified levels of the "100/90 formula" for post-retirement health coverage. This would be available to employees 50 years or older who complete 10 years of credited state service, as defined in Government Code section 20069, at retirement with at least 5 of those credited years served with the District. This provision would only apply to District employees first hired on or after January 1, 2009.

#### **Legislative History**

- 1998 Chapter 996 (AB 2764, PER&SS) – This bill established health vesting provisions for public agencies and school districts by enabling all contracting public agencies to provide employer contributions toward the health benefit premium cost based upon the length of employment with that employer. CalPERS suggested non-substantive amendments. The City of Concord, County of Santa Clara and others public agencies supported this bill. There was no opposition to this bill. *CalPERS' Position: Support, with (non-substantive, technical) amendments.*
- 1997 Chapter 951 (AB 1595, Knox) – This CalPERS omnibus bill included a provision allowing the City of Fontana, Alameda County Water District and

the City of Lincoln to contract for the vesting schedule for retiree health benefits established by Chapter 946 (1995). *CalPERS' Position: Sponsor*

- 1995 Chapter 326 (AB 1506, Kuehl) – This bill permitted the Santa Monica Community College District and the Mt. San Antonio Community College District to enter into collective bargaining negotiations to agree to specified conditions regarding employer contributions for postretirement health care benefit coverage. This bill was supported by affected colleges, School Services of California and the California School Employees Association. There was no opposition to this bill. *CalPERS' Position: Neutral, if amended (technical amendments)*

Chapter 946 (SB 1946, Leslie) – This bill permitted the Calaveras County Water District to apply a vesting requirement that employees would have to meet before they became eligible to receive an employer contribution toward post-retirement health benefits. The vesting requirement is identical to the one used by the State. *CalPERS' Position: Neutral*

## Issues

### 1. Arguments by Those in Support:

According to the sponsor, "Currently there is little flexibility in the law for state agencies to negotiate retiree medical benefits. We must either choose between 100 percent retiree medical at five years or 100 percent at 20 years. Retiree benefits are important to help attract and retain dedicated employees; however, with the new GASB 45 regulation to disclose unfunded liability for retiree medical, agencies are faced with reducing retiree medical obligations or eliminating them all together. This bill would allow an employee-management negotiated contract to be implemented and would give future employees retiree medical at 100 percent after 10 years. While tiered benefits are not ideal, this bill would only make the difference in benefits between current and future employees 5 years instead of the 20 years that is currently offered by CalPERS."

Supporters conclude, "This legislation would also bring fairness to the current structure of benefits. Right now employees hired by West County Wastewater can receive 100 percent retiree medical benefits paid in full by the district if the employee only works one day with the district if he/she has 5 years in the CalPERS system. This bill will ensure that the employee has worked at least 5 years for the waste water district and has 10 years in the CalPERS system before receiving 100 percent retiree benefits."

*Organizations in Support: Public Employees Union, Local #1 (Sponsor), West County Wastewater District*

2. Arguments by Those in Opposition

There is no known opposition.

*Organizations in Opposition: None on file.*

3. Precedent Setting

This bill seeks to codify a local MOU between the Public Employees Union, Local #1, and the District. While the bargaining agreement in itself is not precedent setting, negotiating a contract option not available under current law, and then seeking legislation to codify the contract option is problematic. This precedent may encourage other public agencies to negotiate health care contracting options and then seek legislation to codify their contract option under PEMHCA. This practice would undermine the Board's ability to manage the PEMHCA program and diminish the Board's authority to control and administer the program.

Locally negotiated contracts, later codified in law may result in significant adverse impact to the PEMHCA program by creating inconsistency and increased complexity. In contrast, greater flexibility for contracting agencies could more easily be administered if this practice were consistently applied under general standards.

Staff believes that standard can be achieved by amending existing statute for the benefit of all contracting agencies.

4. This Issue Is Not Unique To The West County Wastewater District

This bill addresses issues applicable to most contracting agencies. Vesting schedules under PEMHCA are static and not flexible to negotiation. The responsibility for Other Post-Retirement Employment Benefits (OPEB), including health care benefits for PEMHCA employees moving from one public agency to another falls entirely to the final employer, regardless of time spent with that employer. The GASB 45 reporting requirements for OPEB has employers looking for ways to lower their unfunded liabilities.

Because of the universal nature of the impact of these issues, staff recommends this proposed vesting option be made available to all contracting agencies.

5. School Districts Have An Option Not Available To Contracting Agencies

The bargaining process which the District and the employees' union used to negotiate these provisions are currently available to school employers. This option protects the rights and benefits of school retirees while allowing school employers and active employees to negotiate health contribution agreements for future retirees which may differ from those established for past retirees. Current law allows school employees to negotiate the best mix of current and future

benefits for themselves while holding intact the benefit design of previous retirees. This option provides school employers with far more flexibility than other contracting agencies, who are required to link the impacts of agreements to the date of first hire. Giving all contracting agencies the ability to negotiate employer contributions for future annuitant health care coverage would provide the same vesting options to all employers participating in PEMHCA.

6. Legislative Policy Standards

CalPERS' Legislative Policy Standards suggest a neutral position for proposals which change retirement benefits which are appropriately subject to collective bargaining and are consistent with other Board policies. Staff recommends the Board take a neutral, if amended position to allow this contract option to all contracting employers.

**V. STRATEGIC PLAN:**

This item is not a specific product of the Annual or Strategic Plans, but is a part of the regular and ongoing workload of the Office of Governmental Affairs.

**VI. RESULTS/COSTS:**

This bill codifies the outcome of collective bargaining negotiations between the West County Wastewater District and its employee group. AB 524 would provide the District with a PEMHCA contract option to provide an employer contribution for annuitant health care premiums based on the 100/90 formula if the employee completes 10 years of state service at retirement, 5 of which must be with the District. This provision only applies to district employees who are first hired on or after January 1, 2009, but may be annually offered by the District to all other employees.

**Program Cost**

The implementation of this new vesting schedule has the potential to save the District money by reducing the number of employees who work for a short time period and then retire with 100 percent of their post-retirement medical paid by the District. In addition, it could reduce the District's unfunded liabilities reportable under GASB 45.

**Administrative Costs**

Administrative costs to CalPERS will depend on the number of agencies that opt to change their resolutions if this bill passes.

---

Wendy Notsinneh, Chief  
Office of Governmental Affairs

---

Gregory A. Franklin  
Assistant Executive Officer  
Health Benefits Branch

---

Gloria Moore Andrews  
Deputy Executive Officer  
Operations